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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,529	04/22/2004	Scott Mordin Hoyte	137243	7322
7590	02/21/2008		EXAMINER	
John S. Beulick Armstrong Teasdale LLP Suite 2600 One Metropolitan Square St. Louis, MO 63102			PHAM, THOMAS K	
			ART UNIT	PAPER NUMBER
			2121	
			MAIL DATE	DELIVERY MODE
			02/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/829,529	HOYTE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Thomas K. Pham	2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 July 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 9-19 is/are allowed.  
 6) Claim(s) 1-8,20-22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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**Response to arguments**

1. This is in response to the amendment filed 07/05/2007.
2. Applicant's arguments with respect to claims 9-19 are persuasive. The claims are now allowable. However, applicant's arguments with respect to claims 1-8 and 20-22 are moot in view of the new ground(s) of rejection.

**Quotations of U.S. Code Title 35**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ541, 550-551 (CCPA 1969)" (MPEP p2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. The Examiner will reference prior art using terminology familiar to

one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

***Claim Rejections - 35 USC § 102***

6. Claims 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,445,962 ("Blevins").

**Regarding claim 20**

Blevins teaches "a computer program embodied on a computer readable medium for monitoring a plant, the plant having a plurality of equipment combinations operating interactively with each other and with individual equipment" (e.g. FIG. 1, plurality of devices communicate interactively with one another as in col. 3 lines 22-49 and col. 6 lines 1-6), "said program comprising a code segment that controls a computer that receives a plurality of process parameters from sensors operatively coupled to the equipment combinations and individual equipment" (e.g. col. 3 lines 37-49, col. 5 lines 4-18, and col. 7 lines 2-16, measured data are collected) "and then derives values for process parameters using the measured process parameters (e.g. col. 3 lines 40-45 and col. 9 lines 57-63, using sets of rules to determine new tuning parameters); "selects a rule from a set of rules comprising a plurality of commands that direct data analysis for each at least one of measured process parameter, a derived quantity, a plurality of measured process parameters and a derived quantities associated with an equipment combination" (e.g. col. 3 line 63 to col. 4 line 12 and col. 9 lines 42-56); "recommends at least one of a mitigating procedure, a maintaining procedure, and an operation procedure" (e.g. col. 3 lines 45-49 , sending new tuning parameters over the network for recommending of re-tuning the control element).

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**Regarding claim 21**

Blevins teaches directs the computer to receive a plurality of process parameters from a portable data collector (e.g. col. 5 lines 35-41).

**Regarding claim 22**

Blevins teaches directs the computer to receive a plurality of process parameters from an online process monitor (e.g. col. 5 line 57 to col. 6 line 11).

**Claim Rejections - 35 USC § 103**

7. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,445,962 ("Blevins") in view of U.S. Patent No. 6,405,139 ("Kicinski").

**Regarding claim 1**

Blevins teaches "A method for operating a facility having a plurality of equipment combinations, each equipment combination is operable interactively with at least one other equipment combination" (e.g. FIG. 1, plurality of devices communicate interactively with one another as in col. 3 lines 22-49 and col. 6 lines 1-6), "said method comprising: receiving a plurality of measured process parameters, in real-time, for each of the plurality of equipment combinations" (e.g. col. 3 lines 37-49 and col. 7 lines 2-16, measured data are collected); "determining at least one derived quantity from the plurality of measured process parameters" (e.g. col. 3 lines 40-45 and col. 9 lines 57-63, using sets of rules to determine new tuning parameters); "and recommending a change to an equipment operation based on the measured process parameters and the derived quantities" (e.g. col. 3 lines 45-49, sending new tuning parameters over the network for recommending of re-tuning the control element).

Blevins does not specifically disclose the equipment combinations include at least a driver machine and a driven machine.

However, Kicinski shows that the equipments combination includes a driver machine (motor) and a driven machine (pump) (e.g. FIG. 3).

Therefore, it would have been obvious that the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious simple substitution of the equipment combination of Blevins with the equipment combination of Kicinski would have yield predictable results to one of ordinary skill in the art at the time of the invention.

#### **Regarding claim 2**

Blevins teaches wherein receiving, in real-time, for each of the plurality of equipment combinations and for the at least one individual piece of equipment further comprises receiving measured process parameters intermittently (e.g. col. 7 lines 2-9).

#### **Regarding claim 3**

Blevins teaches wherein determining at least one derived quantity comprises determining at least one derived quantity in real-time (e.g. col. 9 lines 27-37).

#### **Regarding claim 4**

Blevins teaches determining at least one derived quantity comprises: receiving measured process parameters associated with each of the derived quantities; and determining each of the derived quantities using at least one rule from a rule set (e.g. col. 3 lines 37-45).

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**Regarding claim 5**

Blevins teaches generating a rule set for an equipment combination using at least one of the measured process parameters, the derived quantities, a design specification for the equipment combination, a maintenance history of the equipment combination, and an expert database (e.g. col. 9 lines 38-56).

**Regarding claim 6**

Blevins teaches receiving technical information from an online interactive technical manual for at least one equipment combination (e.g. col. 5 lines 1-18).

**Regarding claim 7**

Blevins teaches receiving measured process parameters from a remote input/output device (e.g. col. 5 lines 35-41).

**Regarding claim 8**

Blevins teaches receiving measured process parameters from a portable data logger (e.g. col. 5 lines 35-41).

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday - Friday from 7:30 AM - 4:00 PM EST or contact Supervisor *Mr. Albert Decayd* at (571) 272-3819.

Any response to this office action should be mailed to: **Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450**. Responses may also be faxed to the **official fax number (571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Thomas Pham**

/Thomas K Pham/  
Primary Examiner, Art Unit 2121

February 19, 2008